

FISCAL NOTE

HB 573 - SB 769

April 5, 2007

SUMMARY OF BILL: Includes the number of units as a basis for grading criminal classification for the use of counterfeit marks or logos. Increases the penalty for manufacture of a good identified by a counterfeit mark with a value less than \$500 from a Class A misdemeanor to a Class E felony. Creates a Class C felony if offender knowingly or recklessly causes bodily injury to another during the commission of an offense involving counterfeit marks or logos. Second or subsequent offense is punishable as a Class B felony. Creates a Class B felony if offender knowingly or recklessly causes serious bodily injury or death to another during the commission of an offense involving counterfeit marks or logos. Second or subsequent offense is punishable as a Class A felony.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$98,000/ Incarceration*

Assumptions:

- Currently, it is an offense for a person to use, display, distribute, offer for sale or sell an item or service that is identified by a counterfeit mark. Such offense is graded by theft classification and punishable by fine only. The proposed bill makes all offenses punishable by incarceration. Punishment is increased one classification higher for second or subsequent offenses.
- One offender will be convicted of a Class E felony for manufacture of a good identified by a counterfeit mark with a value less than \$500 and one offender will be convicted of a Class E felony for use or display of an item identified by a counterfeit mark and will serve 0.3 years (an increase from a Class A misdemeanor to a Class E felony). The cost per inmate at 0.3 years is \$6,592.33 (\$60.16 x 109.58 days). The additional operating cost for two offenders is \$13,184.66 (\$6,592.33 x 2).
- One offender will be convicted of a Class D felony for manufacture of a good identified by a counterfeit mark with a value of \$1,000 or more but less than \$10,000 for a second or subsequent offense. Such offense will be elevated to a Class C felony and will serve an additional 0.3 years (an increase from 0.6 years to 0.9 years). The cost per inmate at 0.6 years is \$13,184.06 (\$60.16 x 219.15 days). The cost per inmate at 0.9 years

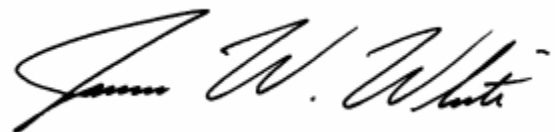
is \$19,776.40 ($\60.16×328.73 days). The additional cost from increasing the average sentence from 0.6 years to 0.9 years is \$6,592.34 ($\$19,776.40 - \$13,184.06$).

- One offender will be convicted of a Class C felony for use or display of an item identified by a counterfeit mark and will serve 0.9 years. The cost per inmate for 0.9 years is \$19,776.40 ($\60.16×328.73 days).
- One offender every five years will be convicted of a Class C felony for knowingly or recklessly causing bodily injury to another during the commission of an offense involving counterfeit marks or logos with 0.9 years served. The annualized time served per conviction is 65.75 days (0.20 annual number of convictions $\times 328.73$ days served). The annualized cost per conviction is \$3,955.52 ($0.20 \times 328.73 \times \60.16).
- One offender every five years will be convicted of a Class B felony for knowingly or recklessly causing serious bodily injury or death to another during the commission of an offense involving counterfeit marks or logos with 2.4 years served. The annualized time served per conviction is 175.32 days (0.20 annual number of convictions $\times 876.60$ days served). The annualized cost per conviction is \$10,547.25 ($0.20 \times 876.60 \times \60.16).
- One offender every five years will be convicted of a Class A felony for use or display of an item identified by a counterfeit mark. In the tenth year, there will be two offenders. The annualized time served per conviction is 730.50 days (0.20 annual number of convictions $\times 3652.50$ days). The annualized cost per conviction is \$43,946.88 ($\$60.16 \times 0.20 \times 730.50$).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with a large initial "J" and a stylized "W".

James W. White, Executive Director